

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : GERS-BARLAG et al.
SERIAL NO. : Not yet assigned
FILED : 21 February 2002
FOR : EMULSIFIER-FREE FINELY DISPERSED SYSTEMS OF THE
WATER-IN-OIL-TYPE
ART UNIT : 1619
EXAMINER : Michael Hartley

21 February 2002

Hon. Commissioner of Patents
Washington, D.C. 20231

PRELIMINARY AMENDMENT

SIR:

Prior to examination, please amend the above-identified application as follows:

IN THE SPECIFICATION:

On page 7, after line 31, please insert the following paragraph:

--Brief Description of the Drawings:

Figure 1 depicts a diagram of a W/O Pickering emulsion.--

IN THE CLAIMS:

Please cancel claims 1-12 and add new claims 13-24 (see next page):

13. An emulsifier-free cosmetic or dermatological preparation, which preparation is a finely dispersed water-in-oil system, said preparation comprising
- a) an oil phase;
 - b) an aqueous phase; and
 - c) micronized, inorganic pigments particles positioned at an interface of said oil phase and said aqueous phase, said micronized, inorganic pigment particles being metal oxides which:
 - i) have an average particle size of less than 200 nm;
 - ii) have both hydrophilic and lipophilic properties resulting in an amphiphilic character; and
 - d) optionally cosmetic or pharmaceutical auxiliaries, additives and/or active substances.
14. Preparation according to Claim 13, wherein the content of the metal oxides used is between 0.1% by weight and 30% by weight, based on the total weight of the preparations.
15. Preparation according to Claim 13, wherein the particle diameter of the metal oxides used is between 5 nm and 100 nm.
16. Preparation according to Claim 13, wherein the metal oxides used are titanium dioxide and/or zinc oxide.
17. Preparation according to Claim 13, wherein one of the metal oxides used is talc.
18. Preparation according to Claim 13, wherein the metal oxides used have been surface-treated to repel water, the amphiphilic character of the pigments being formed or retained.
19. Preparation according to Claim 13, wherein the metal oxides used are titanium dioxide particles coated with simethicone and alumina.

20. Preparation according to Claim 13, wherein other metal oxides are present in addition to the amphiphilic metal oxides.
21. Preparation according to Claim 13, comprising one or more additives or active substances selected from the group consisting of antioxidants and/or UV protectants.
22. Preparation according to Claim 13, comprising one or more additives or active substances selected from the group consisting of astringents and/or antimicrobial substances.
23. A process for preparing the emulsifier-free cosmetic or dermatological preparation of claim 13, said process comprising:
- a) dispersing an amphiphilic inorganic pigment particles of claim 13 in an oil phase to form a mixture of said micronized inorganic pigment particles and said oil phase, said oil phase optionally comprising one or more cosmetic or pharmaceutical auxiliaries, additives and/or active ingredients;
 - b) homogenizing said mixture by uniform stirring and, optionally, heating; and
 - c) during said homogenizing, mixing an aqueous phase with said mixture, said aqueous phase also optionally comprising one or more cosmetic or pharmaceutical auxiliaries, additives and/or active ingredients.
24. A method of providing skin care, said method comprising applying to the skin a preparation according to any one of claims 13-22.

REMARKS

Claims 1-12 have been cancelled and claims 13-24 have been added. Claims 13-24 are now pending. Although claims 13-24 are broader in scope than the claims allowed in 09/367,365, they still represent a narrower embodiment of originally filed claims 1-12. As such, it is believed that no new matter has been added.

Claims 13-24 correspond to the claims allowed in parent application 09/367,365 with the exception of the coating limitation (see attached sheet for comparison of claims), i.e. the scope of the claims has been expanded so that the amphiphilic metal oxide microfine particles are not limited by the means by which they are made to be amphiphilic.

If the only issue preventing allowability of the claims is the lack of a terminal disclaimer to overcome a obviousness-type double patenting rejection, the examiner is encouraged to telephone the undersigned (A faxed copy of the appropriate terminal disclaimers can be provided within 48 hours or less - Given the cost (\$110 per terminal disclaimer), the applicants prefer not to file the terminal disclaimers until there is an indication of allowable subject matter.)

Early and favorable action is earnestly solicited.

Respectfully submitted,
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CERTIFICATE OF MAILING

I hereby certify that the foregoing Preliminary Amendment is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Hon. Assistant Commissioner for Patents, Washington, D.C. 20231, on the date indicated below:

Date: 21 February 2002

By Howard C. Lee
Howard C. Lee